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SUBJECT: LEBANON TRIBUNAL: BROAD SUPPORT IN COUNCIL BUT
RUSSIA WARNS AGAINST PREMATURE ESTABLISHMENT

[11](#). (SBU) Summary. UN Legal Counsel Nicolas Michel delivered a largely technical briefing to the Security Council on March 28 about the SYG's efforts to set up the Special Tribunal for Lebanon (STL) per UNSCR 1757. Recalling all the steps that have been taken since the SYG's last report in September, including conclusion of a headquarters agreement and selection of judges, Michel also said the SYG has now received USD 34.4 million in cash and USD 25.9 million in pledges. This figure is close to the USD 50 million in cash that the SYG will need to cover the set up and first year of the Tribunal's operations. Michel also said most of the key elements are in place to ensure a coordinated transition between the International Independent Investigation Committee (UNIIIC) and the STL. In response to this presentation, most delegations welcomed the SYG's efforts and reinforced the importance of setting up the STL soon, but several delegates warned that the work of the STL must be seen to be impartial and guided only by legal considerations. Russian PR Churkin complained that the SYG had established the Management Committee without consulting with the UNSC (which was not required). He also emphasized that the UNIIIC investigation must conclude before the STL begins functioning and that the two entities should not exist in parallel. Michel replied that the SYG would decide when the STL begins functioning. After the consultations, the Council adopted a press statement welcoming the SYG's report and the progress achieved in setting up the STL. End Summary.

Michel Briefs on Setup of Tribunal

[12](#). (U) Before a largely technical briefing on the set up of the STL, Michel emphasized that the Secretariat has approached the issue with a view to maintaining the "broad-based, consensual support" for the Tribunal reflected in several unanimously adopted UNSC resolutions and letters that authorized the SYG's work. Since the SYG's last report on UNSCR 1757 in September 2007, the Secretariat had signed the Headquarters Agreement (HQA) with the Dutch, selected judges and appointed the Prosecutor and Registrar, and had established a Management Committee. Michel said OLA is in active discussions to ensure a coordinated transition from the IIIC to the STL and that most of the key elements are in place. For example, the UNIIIC Commissioner had been asked to establish a witness protection program.

[13](#). (U) In terms of funding for the Tribunal, Michel reported that the SYG had raised USD 34.4 million in cash and an additional USD 25.9 million in pledges for the set up and first year of the STL's operation. If all pledges are converted into cash, this will leave the SYG with more than USD 60 million, above the estimated USD 50 million needed for the first year and set up. In order to meet the budgetary

requirements for the STL to begin functioning, Michel noted, the SYG must also receive "sufficiently clear indications" that he will receive adequate contributions for the second and third years.

Broad Support for Tribunal

¶4. (SBU) Most delegations welcomed the SYG's efforts and reinforced the importance of setting up the STL soon. Many also stressed the need for a well-coordinated transition from the UNIIIC to the STL. Amb Khalilzad emphasized that the set up of the Tribunal would help end impunity for political assassinations in Lebanon and beyond. The sooner the STL becomes operational, he argued, the sooner it will have a deterrent impact on the actions of those responsible for these crimes. Indonesia said it was "mindful of the important progress" with regard to the STL and hoped the Tribunal would be set up soon. Libya agreed the Tribunal would be important in ending impunity in Lebanon and helping the GOL extend its sovereignty across its country. Following Amb Khalilzad's exhortation to Council members to support the STL financially, Italy announced that it is considering a "substantial" contribution. The UK said it was considering an additional contribution beyond the USD one million it had already announced.

But Concerns About Politicization

¶5. (SBU) Despite the broad support expressed for the Tribunal, several delegations warned that the work of the STL must be seen to be impartial and guided only by legal considerations. Indonesia, noting that the HQA had been negotiated bilaterally instead of trilaterally because of the continuing political crisis in Lebanon, underscored that it

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is impossible to separate the STL from Lebanese politics and that this linkage must be understood. (Note: The fact that Indonesia realized that the HQA was concluded bilaterally between the Netherlands and the UN shows how closely they are following this issue. End Note.) Vietnam added that any measure adopted by the UNSC on the Tribunal must also be "fair and balanced." China said the STL must operate in "strict accordance" with relevant UNSCRs and bilateral agreements between the UN and Lebanon, with full consultation with the GOL.

Russia Complains About Management Committee

¶6. (SBU) After "noting" the SYG's progress in setting up the Tribunal, Russian PR Churkin underscored that the Management Committee would play a significant role in guiding the efforts of the STL, and expressed "surprise" that the SYG established the Committee without consulting the SYG. (Note: The SYG is under no such obligation in UNSCR 1757. End Note.) Since all countries on the Committee come from "one geographic area," Churkin argued the Committee would be "unlikely to ensure an impartial Tribunal." (Note: As Lebanon is a member of the Committee, Churkin was again incorrect. End Note.) He said that although financial contributions should be one criterion for membership, given the delicate political situation, contributions should not be the only criteria. Due to its displeasure with the way the Management Committee was established, Churkin said Russia could not agree to "commend" the SYG for his efforts to set up the STL in the draft press statement.

¶7. (SBU) Churkin also emphasized that UNIIIC should have "sufficient time to complete its investigation" before the Tribunal begins functioning. The UN must "avoid the parallel existence of the two bodies," he declared. Libya and Indonesia also underscored the need to ensure a "coordinated transition" between UNIIIC and the STL. Separately, Libya

tried to amend the draft press statement to delete the phrase that the SYG should establish the STL in coordination with the GOL "when appropriate." (Note: Libya seemed to believe that Lebanon must agree in all matters related to the Tribunal. End Note.) After the U.S., France, and Russia recalled that the language in the draft press statement about coordination with the GOL comes directly from UNSCR 1757, Libya relented.

Michel Defends Himself and STL

18. (SBU) In response to Churkin's criticism, Michel took the floor again to explain that all members of the Management Committee had contributed at least USD one million to the Tribunal. The Committee envisioned adding new members if they satisfy the criteria for membership, including making significant contributions to the STL. The Committee also planned to convene a Group of Interested states to provide regular information about the STL. He agreed that the Tribunal must remain strictly impartial and operate based on purely legal considerations, and to this end, noted that the UN had hired communications staff to deliver that message to the Arabic media in Beirut and beyond. In this respect, he expressed satisfaction that several states that were originally skeptical of the Tribunal had decided to make financial contributions, which Michel interpreted as a sign of confidence in the Secretariat's approach to the set up. On the transition between UNIIIC and the STL, Michel emphasized that, in accordance with resolution 1757, the SYG would decide when the STL would begin functioning, after consultation with the GOL and in light of financial contributions to the Tribunal and the state of the UNIIIC investigation.

Council Adopts Press Statement

19. (SBU) After the consultations, Russian PR Churkin read out the following statement to the press on behalf of the Council:

The members of the Security Council were briefed today by Under Secretary-General Nicolas Michel on the Secretary-General's report on the implementation of

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resolution 1757 (2007) regarding the establishment of the Special Tribunal for Lebanon.

They welcomed the report and took note of the Secretary-General's efforts regarding the establishment of

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the Special Tribunal, based on the highest international standards of criminal justice.

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The members of the Security Council noted the substantial progress that has been made, in particular the signing of the Headquarters Agreement between the United Nations and the Kingdom of the Netherlands, the appointment of the Prosecutor as well as of the Registrar of the Special Tribunal, and the establishment of the Management Committee.

They welcomed the contributions and pledges received and expressed support for the Secretary-General's efforts to continue to seek the necessary funds from Member States.

The members of the Security Council encouraged the Secretary-General to continue to undertake, in coordination,

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when appropriate, with the Government of Lebanon, the steps and measures necessary to establish the Special Tribunal in a timely manner.

